

LEGISLATIVE COUNCIL

Senate Majority Caucus Room

Boise, Idaho

November 10, 2005

MINUTES

The meeting was called to order at 9:00 a.m. by Pro Tem Robert L. Geddes, co-chair. Members of the Legislative Council in attendance were Speaker Bruce Newcomb, co-chair; Senators Bart Davis, Patti Anne Lodge, Clint Stennett, Elliot Werk and David Langhorst; and Representatives Lawrence Denney, Frances Field, Gary Collins, Wendy Jaquet, Mary Lou Shepherd and Elaine Smith. Senator Dick Compton was absent and excused, as he is recovering from knee surgery, and he expressed his regrets to the Council at being unable to attend the meeting. Also in attendance or participating in the meeting were Senator Joe Stegner, Jeannine Wood, Brian Kane, Kent Kunz, Rakesh Mohan, Paul Headley and Peter Morrill. Legislative Services Office staff in attendance included Jeff Youtz, Mike Nugent, Ray Ineck, Glenn Harris, Paige Parker, Cathy Holland-Smith, Eric Milstead, Matt Freeman, Jason Hancock, Ray Houston, Dick Burns, Carl Bianchi and Sheila Ison.

Later in the meeting, on a motion by Senator Werk, seconded by Senator Lodge, the minutes of the Council meeting of May 25 were approved.

BUDGET UPDATE

Jeff Youtz reported on the status of the fiscal year 2006 budget and revenue projections, followed by a preview of possible revenues and expenditures during FY 2007. If current projections hold, revenues may exceed maintenance levels by \$200 million. Jeff noted that the long-range, straight-line projections of the growth of spending for Medicaid and Corrections may soon sharply exceed spending for all other major portions of the state budget. Council members discussed how these long-term trends could affect the state budget, and their concerns for dealing with them proactively, as perhaps best described by Senator Werk's expression that, "We have to do something fundamentally different."

FY 2006 STRATEGIC PLAN

Carl Bianchi reported on the achievement of goals and objectives outlined in the 2005 Strategic Plan, followed by a review of the goals and objectives in the strategic plan for FY 2006, including the impact of the unusually high number of legislative interim committees and task forces, and the 12 public hearings held by the Property Tax Interim Committee. In connection with describing Legislative Services Office efforts to install new filters to combat viruses and spyware, and to upgrade transmitters to ensure more secure encryption to enhance the security and reliability of the wireless network, Council members discussed the increasingly difficult problem of dealing with cybersecurity. Speaker Newcomb described recent reports on the ease with which hackers can gain access to Social Security information. Glenn Harris discussed various approaches to avoiding the now almost daily Windows security problems, such as the current network use of GroupWise, a non-

Windows mail system, and his examination of the possibility of moving to Unix software as a alternate to Windows.

Senator Werk informed Council members that he and Representative Black are developing legislation that will require data-gathering companies to notify private individuals if there is unauthorized access to their personal data.

On a suggestion by Representative Jaquet, the Council briefly discussed whether Rules Review Week can be expedited, although Senator Lodge doubted the process could be truncated for the two Health and Welfare committees, due to the volume of rules needing to be reviewed. On a motion by Senator Werk, seconded by Senator Stennett, the Council unanimously approved the FY 2006 Strategic Plan and goals and objectives as submitted.

GEMS OVERVIEW AND PROGRESS

The Council heard an overview and progress report on development of GEMS, the Legislature's new bill drafting / legislation tracking / Idaho Code / data management / multipurpose software system. The new software and application system will replace the current 30-year-old system that operates on hardware in the State Controller's office with a single, integrated system, to provide Idaho Code and Session Laws through the Legislature's Internet Web pages. Carl Bianchi described other state efforts and expenses in developing even more limited systems, as well as other Idaho state agency information system developments and expenses, and then reviewed costs to date for GEMS, and projected total system costs. GEMS is targeted to replace the current software and applications programs in time for the 2008 legislative session, which may be held outside of the Capitol Building, if the Capitol restoration moves forward. Glenn Harris, noting that the project is about 60 percent completed, described enhancements that will be available from the new system, including integrating the exchange of information from the House and Senate, and creation of hyperlinks in statutes and repealers that will allow legislators to link to current code sections as they review the Idaho Code and bills on the Internet, a feature that has been requested by Senator Werk and other legislators.

FY 2007 APPROPRIATION REQUEST

Cathy Holland-Smith presented the appropriation request for the Legislative Services Office and the legislative technology program for Council approval. On a motion by Representative Jaquet and a second by Representative Field, the Council unanimously approved accepting the two FY 2007 appropriation requests as submitted, and approved them for presentation to the Joint Finance-Appropriations Committee on behalf of the Legislative Council.

STUDENT HIGHER EDUCATION COSTS AND INDEBTEDNESS

The Council then considered a draft letter to the Joint Legislative Oversight Committee proposed by Senator Davis and Senator Stennett requesting an Office of Performance Evaluations study of student higher education costs and indebtedness. Senator Davis said that he is concerned over post-secondary costs and the amount of student indebtedness now being incurred in Idaho's higher

education institutions, and that he is not intending to just get information about what costs are being incurred, but rather to achieve an understanding of the cultural shifts that have occurred — Are students going through college today with different cultural expectations, and may that be driving the costs? Are the universities reflecting back information from students on the amount of money needed to attend, thus increasing indebtedness? Is the growing cost and indebtedness having an impact on people deciding to attend colleges and universities?

Senator Davis indicated that he was sensitive to JLOC's workload, and that his intent was to provide this request to JLOC and to ask them to consider it with the other assignments they are facing.

Senator Stennett thought the letter should have more emphasis on the costs of higher education, as well as indebtedness, and how the costs affect the opportunity for students to attend college. On a motion by Senator Davis, seconded by Senator Stennett, the Council agreed to send the draft letter, with Senator Stennett's suggested changes, to JLOC to deal with as that committee might find appropriate. Carl Bianchi will prepare the final letter for signature by the Pro Tem and Speaker.

PLANS FOR THE 2006 LEGISLATIVE SESSION

Pro Tem Geddes and Speaker Newcomb outlined plans for the upcoming legislative session. The session will begin on Monday, January 9, and currently only the Economic Outlook Committee will be meeting during the week before the session convenes. The Council discussed whether a day could be provided at the mid-point of the session to allow legislators to return home to their districts, and ultimately decided to reexamine that suggestion during the session as circumstances might allow. The Council discussed a suggestion by Pro Tem Geddes that there be an opportunity for legislative leadership to hear a report on the various interim committee and task force studies that have occurred during the interim, as a way to receive information and to conclude and express appreciation for their work. Council members thought this to be an excellent proposal, and that the afternoon of the first day of the session would be an opportunity for legislative leadership, Legislative Council and any other interested legislators to hear the committee reports. The Pro Tem contemplates in his suggestion that the meeting to hear committee reports be conducted by the Pro Tem, the Speaker and the two minority leaders, tentatively to be located in the JFAC hearing room. On a motion by Senator Davis, seconded by Senator Werk, the Council approved going forward with the plan.

CAPITOL RESTORATION TASK FORCE RECOMMENDATIONS

Following an abbreviated break for lunch, the Council heard a report from Pro Tem Geddes and Speaker Newcomb, co-chairs of the Capitol Restoration Task Force. Sr. Budget and Policy Analyst Eric Milstead presented an overview of the task force meetings, visits to other states, and options considered, including recent task force consideration of possible use of the former Ada County Courthouse as a site for holding the 2008 and 2009 legislative sessions, during the Capitol restoration. The task force is currently obtaining additional information on construction feasibility and costs, and may hold a final meeting in December.

PROCESS FOR SELECTING NEW DIRECTOR OF LEGISLATIVE SERVICES

Carl Bianchi reviewed the statutory authority of the Legislative Council to appoint a director of legislative services and the job description, last approved by the Legislative Council in January 1994. The Council discussed possible procedures to follow to replace Carl upon his retirement. Senator Stennett thought the job description should be updated to include technology, and that the Council should not delay recruitment efforts to find a replacement. The Pro Tem thought that the Speaker, Pro Tem and Senate and House minority leaders should focus the effort and get ideas and input from Carl. Representative Jaquet thought that the majority and minority leaders could establish a schedule for recruitment and so moved, with a second by Senator Stennett. Senator Davis made a substitute motion, seconded by Representative Field, that the House and Senate majority leaders be included in the screening committee. The Council approved the substitute motion. Carl was asked to update the job description and develop a schedule to move forward.

Later in the meeting, Senator Davis asked to revisit his motion for the screening committee, as the committee would consist of four Republicans and only two Democrats. Senator Lodge noted that the director is a nonpartisan position, and the goal is to select the best person, with the Speaker adding that it is necessary to remove any perception that there is any partisanship in the selection process, and that it is necessary to maintain the nonpartisan professionalism of the Legislative Services Office staff. On a motion by Representative Field, with a second by Senator Lodge, the Council approved adding two more Democrat members to the screening committee, with the final screening committee to consist of the Pro Tem, Speaker, Senate and House minority leaders, Senate and House majority leaders, and two Legislative Council members from the minority party.

INFORMATION BRIEFING

The Council then was briefed by Director Rakesh Mohan and Sr. Performance Evaluator Paul Headley, Office of Performance Evaluations, on their recent performance evaluation report concerning the Idaho School for the Deaf and the Blind, and Council members had an opportunity to ask questions and discuss the report.

LAWSUIT STATUS REPORTS

Assistant Chief Deputy Attorney General Brian Kane reported on the status of three lawsuits involving the Idaho Legislature:

- < The school facilities lawsuit, now 12 years old, has been argued and is awaiting a decision from the Idaho Supreme Court.
- < The Supreme Court heard arguments this week on a challenge to the 2001 reapportionment plan that has been in effect, and a decision by the Supreme Court on whether to uphold or overturn the plan should be forthcoming.
- < A suit by the Idaho Press Club to challenge the ability of legislative standing committees to go into executive session under existing legislative rules will be scheduled for oral argument before the Supreme Court in January or February 2006.

Pro Tem Geddes suggested, as the Legislature is facing turnover of membership this year, that this might be a good time to revisit the statutes implementing the redistricting constitutional amendment, to see if any changes are necessary.

VIDEO STREAMING IN 2006 SESSION

Peter Morrill, general manager of Idaho Public Television, reported on bringing back audio and video Internet streaming of the legislative chambers and the JFAC proceedings during the 2006 session. In response to a question from Senator Werk, Peter indicated that no grants or other sources of funding have become available that would allow an improvement in the quality of the video feed. Carl Bianchi suggested that the Council encourage Peter to approach the Capitol Commission to fund multiple video cameras in order to provide an upgraded video feed and improved Internet streaming of legislative proceedings to the public. He said such funding was contemplated and included in the Capitol restoration master plan, and that by installing multiple cameras as a pilot project during the 2007 session, it would allow the Legislature and Idaho Public Television to learn from that session and then relocate those cameras to wherever the Legislature temporarily relocates during the Capitol restoration. Carl said cameras will be needed during the temporary relocation not only to provide Internet streaming of legislative proceedings, but also to broadcast those proceedings into separate rooms where the public could watch the proceedings, since there will not be adequate gallery space in the temporary location. This is the approach the Utah Legislature has taken during its Capitol restoration and relocation. A motion by Senator Werk, seconded by Representative Smith, to adopt this suggestion occasioned Council discussion on the impact of cameras on the legislative process, and eventually died on a five to five vote.

Later in the meeting, Senator Davis asked to revisit this decision. Carl Bianchi noted that Senator Davis's concerns about maintaining the status quo during the 2006 session would be accommodated by his suggestion, and that camera coverage during the 2007 session would be on a pilot basis, to allow the Legislature to access the impact of cameras before relocating during the restoration. On a motion by Speaker Newcomb, seconded by Representative Field, the Council recommended that Peter Morrill obtain information on the costs for a new camera system and that Carl Bianchi work with Idaho Public Television to explore the opportunities for the pilot test during the 2007 legislative session.

REVISED STATEMENTS OF PURPOSE

The Council concluded its work with a lively discussion of whether statements of purpose/fiscal notes should be revised when a bill is substantially amended so as to render the SOP/fiscal note inaccurate. Senator Davis, noting that some courts use SOPs to interpret legislative intent, thought the joint rule should contain a provision noting that SOPs should not be construed to express legislative intent. Speaker Newcomb thought that courts should only look at the title to determine the intent of a bill. Representative Denney said committees need to conduct "due diligence" to be sure SOPs are accurate and concise and actually deal with what the bill does. Carl Bianchi noted that the Colorado legislature in its joint rules provides that the statement of purpose applies only to the bill as introduced, and not to any amendments that subsequently may be adopted, while Senator Langhorst thought we might even rename the SOP the "Sponsor's SOP," for clarification.

On a motion by Senator Davis, seconded by Representative Smith, the Council approved asking Carl Bianchi to draft a proposed amendment to Joint Rule 18 for consideration by legislative leadership to encourage both bodies to consider that would:

- < make any clarifications needed;
- < contain language adopting the Colorado approach; and
- < explain that the statement of purpose should not be construed by any institution as a statement of legislative intent.

The Council meeting was adjourned at 4:00 p.m.